IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1005 OF 2000

Malegaon Municipal Council ...Appellant
Vs.
Kishore Bhogilal Shah & Anr. ...Respondents

Shri Prashant Naik for the Appellant.
Shri K.K. Tated, A.G.P. for the Respondent No.2.

CORAM : A. S. OKA, J.
DATE : JUNE 15, 2006.

P.C.:

1. Heard Shri Naik appearing for the Appellant and Shri Tated, learned A.G.P. for the Respondent NO.2. Shri Naik submitted that the Appellant is the acquiring body for whose benefit acquisition of the land has been made. He pointed out that before deciding the reference under section 18 of the Land Acquisition Act, 1894 filed by the Respondent No.1, the Reference Court had not issued notice of the reference to the Appellant. He submitted that in view of law laid down by the Apex Court, the Appellant had a right to participate in the proceedings of the reference. He submitted that the judgment and award will have to be set aside and the reference will have to be remanded to the Reference Court to enable the Appellant to appear before the Reference Court and to lead evidence.

2. Issue notice to the Respondent returnable on 11th November, 2006. Shri Tated, learned A.G.P. waives service for the Respondent No.2. Notice to indicate that endeavour will be made to decide the Appeal finally at admission stage.

3. The learned Advocate for the Appellant to ascertain whether the amount awarded is deposited either by the Appellant or by the Respondent No.2.

4. In addition to service through court, Advocate for the Appellant to serve private notice to the Respondent No.1 alongwith an ordinary copy of this order.

JUDGE